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May 21, 2024

VIA ECF

Honorable Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

MEMO ENDORSED

Re: **KRIVAK v. PUTNAM COUNTY et al.**
Docket No.: 7:23-cv-06960 (KMK)
Our File No.: (WRM) 77438

Dear Your Honor:

Please be advised that this firm represents defendants, Putnam County District Attorneys Robert V. Tendy and Kevin Wright, Putnam County Assistant District Attorneys Larry Glasser, Chana Krauss, and Christopher York, and District Attorney Investigator Ralph Cilento (hereinafter referred to as the "PCDA Defendants"), in the above-referenced matter. We write to the Court in response to plaintiff's letter motion dated April 29, 2024, and pursuant to the Court's Order dated May 7, 2024, that granted the PCDA Defendants a two-week extension to respond to same.

With respect to the claimed conflict of Portale Randazzo's continuing representation of the Putnam County Sheriff's Department defendants ("PCSD Defendants"), the PCDA Defendants do not believe that there is any such conflict. Specifically, it is the PCDA Defendants' position that no conflict – actual, implied, or otherwise – exists with Portale Randazzo or any of its attorneys, that would prevent those attorneys from staying on as counsel for the PCSD defendants. In sum, each individual PCDA Defendant does not have any objection to Portale Randazzo's continued representation of the PCSD Defendants.

In addition, we have also spoken with our clients regarding plaintiff's claim that there is an alleged conflict that prevents our firm from representing all of the individual PCDA Defendants in this matter. However, at this juncture, there is no indication that any of the individual defendants will offer conflicting defenses or testimony, or testimony to support a purported *Monell* claim. Simply put, there does not appear to be any such conflict present at this time. To that end, each

Page -2-

Docket No.: 7:23-cv-06960 (KMK)

Krivak v. Putnam County et al.

individual PCDA Defendant does not have any objection to our firm representing them all concurrently in this matter.

Finally, as to the PCDA Defendants' pending motion to dismiss, we respectfully request that the Court permit plaintiff to file a sur-reply to address any purported new arguments that plaintiff believes were raised for the first time in the reply brief, as opposed to the Court declining to consider those arguments altogether.

We thank the Court in advance for its consideration of this matter.

Respectfully submitted,
s/ Frank H. Foster
Frank H. Foster

cc: All Counsel of Record via ECF

Via U.S. Mail

Denise Rose

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In lieu of a pre-motion conference, the Court directs the Parties to brief the remaining conflicts issues. Movant's brief will be due by June 24, 2024. Responses will be due by July 24, 2024. The Reply, if any, will be due by August 7, 2024.

Additionally, the Court denies without prejudice the PCDA Defendants' pending Motion to Dismiss, which may be refiled following resolution of the conflicts issues.

The Clerk of Court is respectfully requested to terminate the pending Motions at Dkt. Nos. 71 and 84.

SO ORDERED.

5/22/2024.

A handwritten signature in black ink, appearing to be "DRose", written over a horizontal line.